

STATE OF HAWAI'I  
HAWAI'I LABOR RELATIONS BOARD

In the Matter of

LEE T. CHOW,

Complainant,

and

CITY AND COUNTY OF HONOLULU;  
and UNITED PUBLIC WORKERS,  
AFSCME, LOCAL 646, AFL-CIO,

Respondents.

CASE NO(S).     19-CU-01-376  
                         19-CE-01-935

ORDER NO.       3573

PRETRIAL ORDER AND NOTICES;

- (1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE COMPLAINT;
- (2) NOTICE OF FILING REQUIREMENTS;
- (3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS;
- (4) PRETRIAL STATEMENT
- (5) NOTICE OF HEARING ON THE MERITS; AND
- (6) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

- PRETRIAL ORDER AND NOTICES;
- (1) NOTICE TO RESPONDENT(S) OF PROHIBITED PRACTICE COMPLAINT;  
(2) NOTICE OF FILING REQUIREMENTS; (3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS; (4) PRETRIAL STATEMENT;  
(5) NOTICE OF HEARING ON THE MERITS; AND  
(6) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES

**PRETRIAL ORDER AND NOTICES**

THE PARTIES ARE HEREBY NOTIFIED AND ORDERED TO COMPLY WITH THIS PRETRIAL ORDER AND NOTICES. The Hawai'i Labor Relations Board (Board) may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this

Pretrial Order and Notice if the parties or attorneys have not shown good cause for failure to comply or a good faith effort to comply.

This document shall control the course of proceedings and may not be amended except by the Board through an Order or Notice, by a written request by a party with written consent of all the parties (stipulation), or by an order granting a motion filed with the Board. The use of singular, plural, masculine, feminine, and neuter pronouns shall include the others as the context may require.

**(1) NOTICE TO RESPONDENT(S) OF A PROHIBITED PRACTICE COMPLAINT**

The attached prohibited practice complaint (Complaint) was filed with the Board by the above-named Complainant(s) on: **October 18, 2019.**

PURSUANT TO HAWAII REVIS'D STATUTES (HRS) § 377-9(b) AND HAWAII ADMINISTRATIVE RULES (HAR) § 12-42-42: NOTICE IS HEREBY GIVEN TO RESPONDENT(S) that the above-named COMPLAINANT(S) filed a prohibited practice Complaint with the Board, a copy of which is attached, alleging that you have engaged in or are engaging in prohibited practices in violation of HRS Chapter 89.

YOU ARE DIRECTED to file a written answer to the Complaint within ten (10) days after service of the Complaint. One copy of the answer shall be served on each party, and the original with certificate of service on all parties shall be filed with the Board no later than 4:30 p.m. on the tenth day after service of the Complaint. If you fail to timely file and serve an answer, such failure shall constitute an admission of the material facts alleged in the Complaint and a waiver of hearing. (HAR § 12-42-45(g))

**(2) NOTICE OF FILING REQUIREMENTS**

**1) Electronic Filing:**

**The Board provides to all parties and encourages the use of an electronic filing service through File & ServeXpress.** There is no charge to the parties for use of this electronic filing service.

To register, a party is required to complete and submit the Board Agreement to E-File (Form HLRB-25), as amended, which is available at <http://labor.hawaii.gov/hlrb/forms/>.

Questions regarding the Board's electronic filing system should be directed to the Board's staff at (808) 586-8616.

## **2) Filing in Person or by Mail**

A party may mail or file in person an original of any document at the Board's office at 830 Punchbowl Street, Room 434, Honolulu, Hawai'i, 96813. The Board's office is open on the weekdays (excluding state holidays) between 7:45 a.m. to 4:30 p.m.; the office may occasionally be closed from 12:00 p.m. to 1:00 p.m. The date of receipt by the Board shall be deemed the date of filing.

## **3) Filing Requirements Regarding Protection of Social Security Numbers and Personal Information**

Before a party files or submits any pleading, correspondence, or other document (Documents) to the Board, whether electronically or manually, the party shall make certain that all social security numbers and personal information are redacted or encrypted. "Personal information" shall include social security numbers, home addresses, dates of birth, bank account numbers, medical and health records, and any other information in which a person has a significant privacy interest. To the extent any personal information is relevant to the Board's consideration of this case, the submitting party shall submit the confidential information by means of a Confidential Information Form that substantially conforms to Form 2 of the Hawai'i Court Records Rules, as amended.

If a party submits a document that requires redaction of a page(s), the party shall by motion request permission from the Board to withdraw and replace the original document, in its entirety, with a redacted copy of such document, pursuant to HAR § 12-42-8(g)(11), "The Board may permit withdrawal of original documents upon submission of properly authenticated copies to replace such document."

The Board may impose appropriate monetary or other sanctions upon parties or attorneys who do not comply with this provision where the parties or attorneys have not shown good cause for failure to comply or a good faith attempt to comply.

## **(3) NOTICE OF APPEARANCE AND ACCESSIBILITY OR ACCOMMODATIONS**

All parties have the right to appear in person and to be represented by counsel or any other authorized person in all Board proceedings. Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, including language access, please call the Board at (808) 586-8616, at least seven (7) days prior to a Board proceeding.

The parties should be aware that the Board is in a secured State of Hawai'i building and that any party, representative, counsel, or other person attending a proceeding will need to present a government-issued identification for entry.

#### **(4) PRETRIAL STATEMENT**

**Both the Complainant(s) and the Respondent(s) shall file a Pretrial Statement with the Board, as listed in the Schedule set forth below.** The Pretrial Statement shall include the following:

1. Statement of Issues
2. Witness List

The witness lists shall include, in the interest of judicial economy, a brief but meaningful summary of the nature of the testimony expected, and the order in which the witnesses are expected to be called upon, subject to the witness' availability. The summary for each witness shall include sufficient information for the Board to determine whether the testimony will be irrelevant, immaterial, or unduly repetitious to any other witness testimony; see HRS § 91-10(1).

If a party intends to file a request for a subpoena for a witness, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the witness list.

3. Exhibit List

The exhibit lists shall include copies of the proposed exhibits. The parties are encouraged to use the File & ServeXpress eFiling system to file the exhibits before or by 4:30 p.m. (HST) on the deadline day. A party's exhibits or Joint exhibits shall be combined and filed in a searchable portable document format (PDF) not exceeding 10 megabytes with each exhibit bookmarked and bates-stamped at the top right corner. Alternatively, a party may file exhibits in person or by mail to the Board; the date of receipt by the Board shall be deemed the date of filing.

If a party intends to file a request for a subpoena duces tecum for any of its exhibits, such request shall be concurrently filed with the Pretrial Statement, and a notation that a request is being made shall be listed in the exhibit list.

The Complainant shall identify its exhibits using alphabetical letters (A, B, C, D, etc.). Union Respondent(s) shall identify its exhibits using numerical designations preceded by U (e.g., U-1, U-2, U-3, etc.). Employer Respondent(s) shall identify its exhibits using numerical designations preceded by E (e.g., E-1, E-2, E-3, etc.). In the event that there are multiple Union Respondents or Employer Respondents in a particular case, the Board shall specify the designation for each Respondent.



If there are any duplicative exhibits, the parties shall designate them as Joint Exhibits, the parties shall designate one party to file these exhibits, and the Exhibits shall be marked with numerical designations preceded by J (e.g., J-1, J-2, J-3, etc.).

Additionally, the Exclusive Representative, unless no Exclusive Representative is party to the case, in which case the Employer, must submit to the Board the full applicable collective bargaining agreement(s), including any Memoranda of Understanding, Memoranda of Agreement, or any other supplemental agreement that has any bearing on these proceedings. These documents shall be marked as Board Exhibit 1 or Board Exhibit 1a, 1b, 1c, etc.

#### **(5) NOTICE OF THE HEARING ON THE MERITS**

NOTICE IS HEREBY GIVEN, pursuant to HRS §§ 377-9, 89-5(i)(3), (4), (5), and 89-14, and HAR §§ 12-42-46 and 12-42-49 that the Board will conduct an HOM on the instant Complaint at the place, time and date listed below and in the Schedule set forth below. The purpose of the HOM is to receive evidence and arguments on whether Respondent(s) committed prohibited practices as alleged by Complainant(s).

DATE AND TIME: Monday, November 25, 2019 at 9:00 a.m.

LOCATION: Hawai'i Labor Relations Board Hearing Room  
830 Punchbowl Street – Room 434  
Honolulu, Hawai'i 96813

All parties have the right to appear at the Hearing on the Merits in person and to be represented by counsel or any other authorized person. **All parties, representatives, and witnesses must appear in person at the hearing on the merits.** Auxiliary aids and services are available upon request to the parties and representatives with disabilities. For TTY, dial 711, then ask for (808) 586-8616, the Hawai'i Labor Relations Board, within seven (7) days prior to a Board proceeding. For any other accommodation, please call the Board at (808) 586-8616.

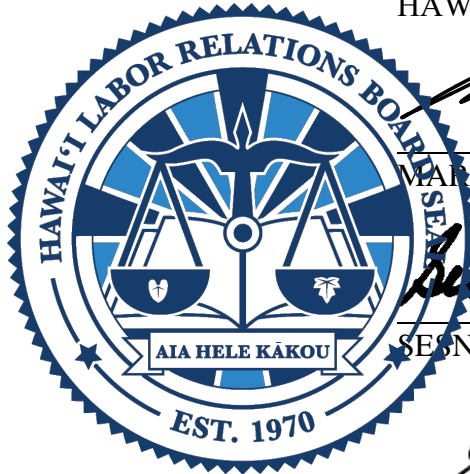
#### **(6) SCHEDULE OF HEARINGS, CONFERENCES, AND DEADLINES**

<b><u>DATES AND DEADLINES</u></b>	<b><u>DATE</u></b>	<b><u>TIME</u></b>
<u>Pretrial Statement</u>	11/22/2019	
<u>Hearing on the Merits</u>	11/25/2019	9:00 a.m.

**All submissions shall be filed on or before 4:30 p.m. on the deadline date.**

DATED: Honolulu, Hawai'i, November 18, 2019.

HAWAII LABOR RELATIONS BOARD



*Marcus R. Oshiro*

MARCUS R. OSHIRO, Chair

*Sesnita A. D. Moepono*

SESNITA A.D. MOEPONO, Member

*J.N. Musto*

J.N. MUSTO, Member

Enclosure: PROHIBITED PRACTICE COMPLAINT

Copies sent to:

Lee T. Chow

Laura Mae Leslie

Ernest Nomura, Deputy Corporation Counsel

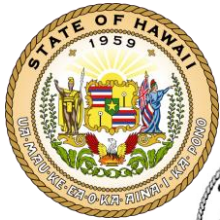
United Public Workers, AFSCME, Local 646, AFL-CIO,

CHOW v. CITY AND COUNTY OF HONOLULU; UPW

CASE NO. 19-CU-01-376; 19-CE-01-935

PRETRIAL ORDER AND NOTICES

ORDER NO. 3573



FILED Oct. 18 2019  
EFiled: Oct 18 2019 01:00PM HAST  
Transaction ID 64440285  
Case No. 19-CU-01-370, 19-CE-01-935  
N. Elmer

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**FORM HLRB-4  
PROHIBITED PRACTICE COMPLAINT**

INSTRUCTIONS. Submit the original<sup>1</sup> of this Complaint to the Hawaii Labor Relations Board, 830 Punchbowl Street, Room 434, Honolulu, Hawaii 96813. If more space is required for any item, attach additional sheets, numbering each item accordingly.

1. The Complainant alleges that the following circumstances exist and requests that the Hawaii Labor Relations Board proceed pursuant to Hawaii Revised Statutes Sections 89-13 and 89-14 and its Administrative Rules, to determine whether there has been any violation of the Hawaii Revised Statutes, Chapter 89.

2. COMPLAINANT Please select one that describes the Complainant:

☒ Public Employee      ☐ Public Employer      ☐ Public Union (public employee organization)

- a. Name, address and telephone number.

Lee T. Chow  
737-B Lukepane Ave.  
Hon., HI 96816  
808.224.0260

- b. Name, address, e-mail address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

Laura Mae Leslie  
2750 West Wigwam Apt#1118  
Las Vegas, NV 89123  
wynleslie@yahoo.com  
702.985.1540

<sup>1</sup> Notwithstanding Board rule 12-42-42(b), the Board only requires the original of the complaint.

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3. RESPONDENT Please select one that describes the Respondent:

☐ Public Employee      ☒ Public Employer      ☒ Public Union (public employee organization)

a. Name, address and telephone number.

City And County of Honolulu  
1000 Uluohia Street suite #308  
Kapolei, HI 96707  
808.768.3486

UPW BU 01. CH 16-07  
1426 North School Street

b. Name, address and telephone number of the principal representative, if any, to whom correspondence is to be directed.

Laura Mae Leslie  
2750 West Wigwam Ave. Apt#1118  
Las Vegas, NV 89123  
702.985.1540

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4. Indicate the appropriate bargaining unit(s) of employee(s) involved.

UPW BU 01 CH 16-07

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5. ALLEGATIONS

The Complainant alleges that the above-named respondent(s) has (have) engaged in or is (are) engaging in a prohibited practice or practices within the meaning of the Hawaii Revised Statutes, Section 89-13. (Specify in detail the particular alleged violation, including the subsection or subsections of the Hawaii Revised Statutes, Section 89-13, alleged to have been violated, together with a complete statement of the facts supporting the complaint, including specific facts as to names, dates, times, and places involved in the acts alleged to be improper.)

It is alleged that on August 8, 2015, you engaged in inappropriate physical contact and verbal statements against a co-worker when you confronted him in a threatened behavior and tone and said "'F\*\*king dumb a\*\*?" and "Why you never stop, f\*\*king dummy?" and pushed your co-worker two (2) times. The investigation of this incident concluded that your behavior constituted a violation of the City's Workplace Violence Policy.

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6. Provide a clear and concise statement of any other relevant facts.

On behalf of the Complainant, Lee T. Chow, I, Laura Mae Leslie, Sister of the complainant is submitting this Prohibited Practice Complaint. Complainant's statement; Lee T, Chow related on the day in question, his co-worker moved towards him in a threatening manner, at which time the complainant had exhausted all of his options, thus causing him to verbally and physically defend himself against his co-worker.

Additional information; It is believed that the Director of the Environmental Services; Lori M. K. Kahikina P.E. made the final decision to terminate the Complainant, after being informed by the Complainant's immediate Supervisor, he would be willing to come to a resolution with both parties, once that resolution was met, allow the complaint to remain employed with no further actions taken against both complainant and co-worker. Furthermore, it is alleged Lori M.K. Kahikina is the neighbor and acquaintance of the co-worker's brother, which gives the appearance that her decision to terminate the complainant is bias.

Other concern; The complainant received a memorandum from Manuel S. Lanuevo, P.E., LEED AP dated December 4, 2015 referencing an investigative Meeting regarding an incident tht occurred on Tuesday, August 8, 2015. the date on the Document presented by Ms. Kahikina depicts a discrepancy, i.e., on the "Formal Complaint" form the date of the incident was on August 8, 2015, at 5:50 a.m., however, Ms. Kahikina annotates the date of the incident "August 5, 2015". . .

Apparently, the UPW Union Representative, Miss Charlie Howard, after receiving the "Step 2" grievance response denial letter from the Director of Human Resources, Carolee C. Kubo, Miss Howard did not follow up in any manner. From October 8, 2016 she was to inform the complainant that she is trying to get her supervisor to represent him in an arbitration. On September 13, 2019 at 11:00 a.m. the Complainant met with Ms. Howard and informed her that I, Laura Mae Leslie, Sister of the complainant would be representing him. Ms. Howard denied me or anyone to sit in on the meeting or represent him.

On October 4, 2019 At approximately 1130 hours (11:30 a.m.), the complainant ws asked to meet with Ms. Howard again. The meeting ended at approximately 1300 hour (1:00 p.m.) During this time Ms Howard advised the complainant the only option was to resign by signing a paper which was from the City & County of Honolulu. Ms Howard advised the complainant, once he resigns, he can reapply for any other job exept for the "Refuse" Department.

STATE OF HAWAII  
HAWAII LABOR RELATIONS BOARD

**DECLARATION IN LIEU OF AFFIDAVIT**

(If the Complainant is self-represented, then the Complainant must sign this Declaration).

Please select one:

- ☐ the Complainant  
☒ the Complainant's principle representative  
☐ the person described below

I, Laura Mae Leslie,

do declare under penalty of law that the foregoing is true and correct.

Date: 10-14-2019

Laura Mae Leslie

*The person signing above agrees that by signing his or her name in the above space with a "/s/ first, middle, last names" is deemed to be treated like an original signature.*

wynleslie@yahoo.com

*Signor's email address*

If you are not the Complainant or listed as the principle representative in #2(b) and you are signing above, then please complete the contact information below.

Your address:

2750 W. Wigwam Ave

Apt #1118

Las Vegas, NV 89123

Your phone number: 702-985-1540

Your relationship to the Complainant:

Sister

If the Complainant or principal representative is registered with File and ServeXpress (FSX), then you may proceed to electronically file this complaint.

If the Complainant or the principal representative is not registered with FSX and would like to electronically file this complaint through FSX, then complete the Board Agreement to E-File, FORM HLRB-25. (Form HLRB-25 is on the HLRB Website at [labor.hawaii.gov/hlrb/forms](http://labor.hawaii.gov/hlrb/forms).) Email the completed form to the Board at [dlir.laborboard@hawaii.gov](mailto:dlir.laborboard@hawaii.gov).

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**  
REFUSE DIVISION  
1000 ULUOHIA STREET, SUITE 201, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3401 • FAX: (808) 768-3434 • WEBSITE: [www.opala.org](http://www.opala.org)

KIRK CALDWELL  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

MANUEL S. LANUEVO, P.E., LEED AP  
CHIEF

IN REPLY REFER TO:  
RA 15-115

December 10, 2015

Mr. Lee T. Chow  
P.O. Box 283061  
Honolulu, Hawaii 96828

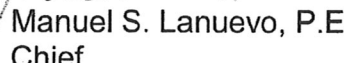
Dear Mr. Chow:

This letter is to inform you that there has been a complaint filed against you alleging workplace violence surrounding an incident which occurred on August 5, 2015. On that day, you allegedly used inappropriate language and pushed a fellow employee. You were informed in writing, on December 4, 2015, of the date, time and place of the investigation.

Pending the outcome of the investigation, you are to have no contact with the complainant. Your supervisor will assign your work to other crews. Please be advised that any form of retaliation against any employee involved in this incident may lead to disciplinary action up to and including termination.

Should you have any questions, please contact John Murakami, Personnel Management Specialist, at 768-3461.

Sincerely,

  
Manuel S. Lanuevo, P.E. LEED AP  
Chief

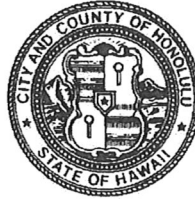
cc: Union – UPW  
OAS - Personnel  
DHR – Labor Relations  
Kapaa Yard - Superintendent

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

REFUSE DIVISION

1000 ULUOHIA STREET, SUITE 201, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3401 • FAX: (808) 768-3434 • WEBSITE: www.opala.org

KIRK CALDWELL  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

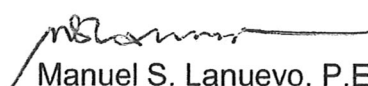
MANUEL S. LANUEVO, P.E., LEED AP  
CHIEF

IN REPLY REFER TO:  
RA 15-111

December 4, 2015

**MEMORANDUM**

TO: Lee T. Chow  
Kapaa Yard

FROM:   
Manuel S. Lanuevo, P.E., LEED AP  
Division Chief

SUBJECT: Investigative Meeting

This is to inform you that we will be conducting an investigation of an incident that occurred on Tuesday, August 8, 2015 at the Kapaa Yard, at approximately 5:50 am, between you and Harold Zuttermeister, Refuse Collection Crew Leader. It is alleged that on the above date, you displayed inappropriate behavior toward Mr. Zuttermeister several times in which he felt threatened.

The interview will be held on **December 17, 2015, at 9:00 am**, in the Kapolei Hale Department of Environmental Services, Environmental Quality Conference Room 303.

Mr. Jason Lorenzo, Safety Specialist II, Department of Environmental Services, will be conducting the investigation. Should you have any questions, please contact him at 768-3457.

You have the right to have your Union representative or any other representative at you own expense, present at this meeting.

Should you decide to have representation present, please make these arrangements and inform Mr. Lorenzo by Friday, December 11, 2015. We will allow you seven (7) days to arrange the presence of a representative at this meeting.

cc: OAS - Personnel  
UPW  
Kapaa Yard - Superintendent



DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

KIRK CALDWELL  
MAYOR



April 8, 2016

LORI M.K. KAHIKINA, P.E.  
DIRECTOR

TIMOTHY A. HOUGHTON  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
RA 16-038

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Lee Chow  
P.O. Box 283061  
Honolulu, Hawaii 96828

Dear Mr. Chow:

The Department has determined that there is sufficient cause to terminate your employment as a Refuse Collector, with the Division of Refuse Collection and Disposal.

It is alleged that on August 5, 2015, you engaged in inappropriate physical contact and verbal statements against a co-worker when you confronted him in a threatened behavior and tone and said, "F\*\*king dumb a\*\*?" and "Why you never stop, f\*\*king dummy?" and pushed your co-worker two (2) times. The investigation of this incident concluded that your behavior constituted a violation of the City's Workplace Violence Policy.

A Pre-determination hearing to discuss the above will be held on, **Monday, April 18, 2016, at 10:00 a.m.** This hearing will be held at the Sand Island Wastewater Treatment Plant, 1350 Sand Island Parkway, Honolulu, 96819. You may bring your union representative. You are responsible to make these arrangements.

Please contact John Murakami, Human Resource Specialist at 768-3461 or 971-1688, by Friday, April 15, 2016, at 3:00 p.m., to confirm your attendance. If we do not hear from you by the above date and time, we may take appropriate action based on the information that is available at this time.

If you wish, you may respond in writing. Please direct your response to John Murakami, at 1000 Uluohia Street, Suite 308, Kapolei Hawaii, 96707. Your response shall be postmarked no later than April 15, 2016.

You are also informed that effective April 11, 2016, you are placed on authorized leave without pay, pending the outcome of this scheduled Pre-determination hearing. Effective upon receipt of this letter, you are not authorized to enter any Department of Environmental Services' facility without consent of the Director until further notice.

Mr. Lee Chow  
April 8, 2016  
Page 2

You are further advised that any violation of this directive or any form of retaliation against any employee involved in this incident or the investigation may be subject to disciplinary action up to and including termination.

Should you have any questions, please contact Mr. Murakami.

Sincerely,

A handwritten signature in black ink, appearing to read "Lori M.K. Bahikina", is written over the printed name and title. The signature is stylized with a large loop at the end.

Lori M.K. Bahikina, P.E.  
Director

cc: UPW  
OAS – Personnel  
DHR – Labor Relations  
Kapaa Yard - Superintendent

DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

KIRK CALDWELL  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

TIMOTHY A. HOUGHTON  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
PER 16-166

June 3, 2016

**CERTIFIED MAIL**  
**RETURN RECEIPT REQUESTED**

Mr. Lee Chow  
P.O. Box 283061  
Honolulu, Hawaii 96828

Dear Mr. Chow:

In accordance with Section 11, Discipline, of Unit 1 Collective Bargaining Agreement, you are hereby terminated for violating City and County of Honolulu's Workplace Violence Policy.

A Pre-determination hearing to discuss the alleged incident that occurred on August 5, 2015, when you engaged in inappropriate physical contact and verbal statements against a co-worker when you confronted him in a threatening behavior and tone and said, "F\*\*king dumb a\*\*" and "Why you never stop. F\*\*king dummy?" and pushed your co-worker two (2) times. The investigation of this incident concluded that your behavior constituted a violation of the City's Workplace Violence Policy.

During the Pre-determination hearing, you testified that your co-worker moved the Refuse Collection vehicle twice as you attempted to board the vehicle. The second time the vehicle was moved, you fell from the vehicle. You also testified that you believed that your co-worker and the other employee in the vehicle at the time, saw you attempting to board the vehicle.

You testified that after a brief exchange of foul language, you exited the vehicle when you saw your co-worker exited from his side of the vehicle and move towards you in an aggressive manner in front of the vehicle. Your co-worker was coming at you and you felt that you needed to defend yourself because you did not know what your co-worker was going to do as he approached you. You also testified that you thought your co-worker had something in his hand. You admitted pushing your co-worker twice, suggesting you did so, as an act of self-defense.

Mr. Lee Chow  
June 3, 2016  
Page 2

Although you believed that it was necessary to defend yourself against your co-worker as he got out of the truck, you had the opportunity to walk away, however, you chose to not do so and pushed your co-worker twice.

You are placed on authorized leave without pay effective the date of this letter and terminated on June 15, 2016.

Should you have any questions, please contact John Murakami, at 768-3461.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lori M.K. Kahikina', is written over the typed name and title. The signature is stylized with loops and a large initial 'L'.

Lori M.K. Kahikina, P.E.  
Director

cc: Division of Refuse Collection and Disposal  
Department of Human Resources – Labor Relations  
United Public Workers  
Personnel – W. Ito

# UPW, AFSCME, LOCAL 646, AFL-CIO

## GRIEVANCE FORM STEP 1

UPW Case #: CH-16-07

TO: Lori Kahikina	Environmental Services	City and County of Honolulu
FROM: Charlie Lee Howard	Business Agent	UPW/Oahu Division
AFFECTED: Lee Chow	Refuse Collector /BC-06A	City & County of Honolulu/ ENV/Refuse/Kapaa

### A. STATEMENT OF GRIEVANCE

- ☒ Date of alleged violation or;  
☐ Continuous violation date first known: June 15, 2016 (Date)
- Section(s) or provision(s) of the Agreement allegedly violated:  
1, 11, 14, 46, 58
- Nature of Complaint: (Date, facts, circumstances, etc.)

This grievance is being filed on behalf of Refuse Collector Lee Chow, employed with the City and County of Honolulu, Department of Environmental Services, Refuse Division, Kapaa Refuse Collection Yard.

By letter dated June 3, 2016, the Grievant was informed that he would continue to be placed on leave without pay until he is terminated effective June 15, 2016 for "violating City and County of Honolulu's Workplace Violence Policy."

It was alleged that the Grievant engaged in "inappropriate physical contact and verbal statements against a co-worker" that contributed to an incident that occurred on August 5, 2015 at the Kapaa Refuse Collection Yard and violated workplace safety procedures.

On that same letter, the Employer explained at Grievant's pre-determination meeting held on April 18, 2016, the Grievant testified the incident was instigated when his co-worker, Refuse Collection Crew Leader Harold Zuttermeister, "moved the Refuse Collection vehicle twice," as Chow attempted to enter and expressed Zuttermeister moved toward him "in an aggressive manner" as they both exited the vehicle.

The Employer violated:

Section 1 by failing to negotiate with the Union when formulating and implementing personnel policies, practices and any matter affecting working conditions changes which were made without mutual consent.

Section 11 by failing to have just and proper cause to impose the discipline.

Section 14 by abridging, amending, and waiving rights, benefits and/or perquisites presently covered by constitutions, statutes and/or rules and regulations that the Employee has enjoyed heretofore.

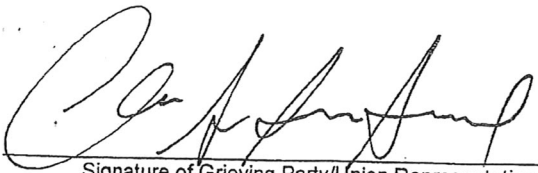
Section 46 by failing to recognize conditions and behavior that may lead to or increase risk of violence and the means and methods to prevent or reduce that risk to Employees and supervisors during work hours.

Section 58 by failing to consider all available evidence, data and factors supporting the employee.

B. REMEDY SOUGHT:

1. Make whole remedies to restore all rights, benefits and status, including but not limited to rescinding the termination and compensation for any and all lost wages.
2. Declaratory relief in favor of the Union and Employee.
3. Remove and destroy all documents related to the subject grievance from the grievant's personnel file.
4. Injunctive relief to restore the status quo and prevent future recurring violations.
5. An order that the Employer rescinds its actions and cease and desists from further actions of a similar nature.
6. Other appropriate relief.

MEETING REQUESTED: YES ☒ NO ☐

  
\_\_\_\_\_  
Signature of Grieving Party/Union Representative

July 1, 2016

\_\_\_\_\_  
Date

\_\_\_\_\_  
Signature of Grieving Party

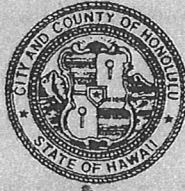
\_\_\_\_\_  
Date



DEPARTMENT OF ENVIRONMENTAL SERVICES  
**CITY AND COUNTY OF HONOLULU**

1000 ULUOHIA STREET, SUITE 308, KAPOLEI, HAWAII 96707  
TELEPHONE: (808) 768-3486 • FAX: (808) 768-3487 • WEBSITE: <http://envhonolulu.org>

KIRK CALDWELL  
MAYOR



LORI M.K. KAHIKINA, P.E.  
DIRECTOR

TIMOTHY A. HOUGHTON  
DEPUTY DIRECTOR

ROSS S. TANIMOTO, P.E.  
DEPUTY DIRECTOR

IN REPLY REFER TO:  
PER 16-272

August 26, 2016

Ms. Charlie Howard  
Union Agent  
United Public Workers  
1426 North School Street  
Honolulu, Hawaii 96817

Dear Ms. Howard:

SUBJECT: Step 1 Grievance Response  
Lee Chow – Refuse Collector

This letter responds to the above-referenced subject. A Step 1 meeting was held on August 8, 2016. Present were Lee Chow, Grievant; John Murakami, Human Resources Specialist; and you.

A mutual agreement between John Murakami, and you to extend the time limits for this Step 1 grievance response is in force.

The incident that lead to the Grievant's termination occurred on August 5, 2016. On this date, the Grievant engaged in inappropriate physical contact and inappropriate verbal statements against a co-worker. The Grievant confronted his co-worker in a threatening behavior and tone. Specifically, the Grievant called the co-worker, a "F\*\*king Dumb A\*\*." The Grievant then said to the co-worker, "Why you never stop, F\*\*king Dummy?" The Grievant also made physical contact with the co-worker and pushed him twice. The Grievant's behavior constituted a violation of the City's Workplace Violence Policy.

During the Step 1 meeting, the Grievant admitted that he made physical contact with the same co-worker and pushed him twice. The Grievant explained that his co-worker approached him in an aggressive manner and that his actions were an act of self-defense.

The Union made Due Process arguments, argued that the punishment was too severe, and pointed out the role of the Supervisors. However, considering the



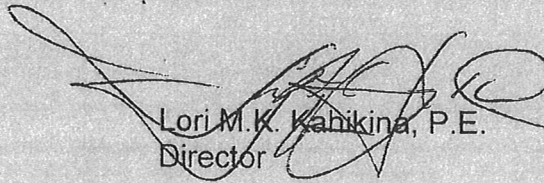
Ms. Charlie Howard  
August 26, 2016  
Page 2

Grievant's inappropriate conduct and statements, and what he could have done to avoid this situation, we find the Union arguments to be unpersuasive.

Based on all of the above, this grievance is denied.

Should you have any questions, please contact John Murakami at 768-3461.

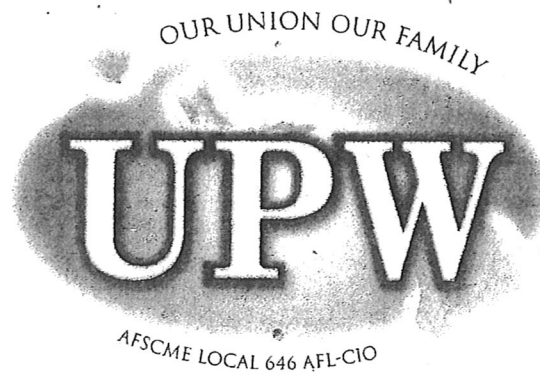
Sincerely,



Lori M.K. Kahikina, P.E.  
Director

cc: Division of Refuse Collection and Disposal  
Department of Human Resources – Labor Relations





Carolee Kubo, Director  
Department of Human Resources  
City & County of Honolulu  
650 South King Street  
Honolulu, HI 96813

CH-16-07  
August 29, 2016

RE: Grievance Case #CH-16-07, dated July 1, 2016, filed on behalf of Lee Chow employed by the City and County of Honolulu, Department of Environmental Services; Refuse Division, Honolulu Baseyard; alleging violation of Sections 1, 11, 14, 46 and 58 of the Unit 01 Agreement.

Dear Ms. Kubo,

This is to inform you of the Union's desire to proceed to Step-2 of the grievance procedure regarding the above-cited grievance. The Step-1 response, dated August 26, 2016, provided by Director Lori M.K. Kahikina, is unsatisfactory and does not serve to resolve the grievance.

Enclosed is a copy of the Step-1 grievance.

Please make the necessary arrangements so that a Step-2 grievance meeting may be held.

Sincerely,

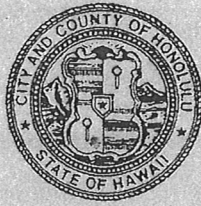
Charlie Lee Howard  
Business Agent

Enclosure

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET, 10<sup>th</sup> Floor  
HONOLULU, HAWAII 96813

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR  
NOEL T. ONO  
ASSISTANT DIRECTOR

October 18, 2016

OCT 20 16 958

Ms. Charlie Lee Howard  
Business Agent  
United Public Workers  
1426 North School Street  
Honolulu, HI 96817-1914

CERTIFIED MAIL  
7015 1660 0000 8252 8458  
RETURN RECEIPT REQUESTED

Subject: EMPLOYER'S STEP 2 GRIEVANCE RESPONSE TO  
GRIEVANCE FILED BY UPW ON BEHALF OF MR. LEE CHOW.  
UPW BU 01. CH 16-07.  
RE: TERMINATION

Dear Ms. Howard:

After reviewing the facts and circumstances in the subject case and based on the reasons cited in the Step 1 Decision, I have concluded that there has been no violation of the Unit 01 Collective Bargaining Agreement as alleged.

Therefore, the Grievance is denied.

Sincerely,

A handwritten signature in cursive script, reading "Carolee C. Kubo".

Carolee C. Kubo  
Director

c: John Murakami, ENV Labor Relations Specialist

DEPARTMENT OF HUMAN RESOURCES  
**CITY AND COUNTY OF HONOLULU**

650 SOUTH KING STREET 10<sup>TH</sup> FLOOR • HONOLULU, HAWAII 96813  
TELEPHONE: (808) 768-8500 • FAX: (808) 768-5563 • INTERNET: [www.honolulu.gov/hr](http://www.honolulu.gov/hr)

KIRK CALDWELL  
MAYOR



CAROLEE C. KUBO  
DIRECTOR

NOEL T. ONO  
ASSISTANT DIRECTOR

February 1, 2017

Ms. Joy M.K. Kaopuiki  
737-B Lukepane Avenue  
Honolulu, Hawaii 96816

Dear Ms. Kaopuiki:

The Mayor's Office acknowledges receipt of your "Tell It to the Mayor" form dated January 30, 2017, regarding your uncle, Mr. Lee Chow. As your concern is a personnel related issue, your concern has been forwarded to the Department of Human Resources to respond on behalf of the Mayor.

The United Public Workers Union (UPW) filed a Grievance challenging the action taken by the Department of Environmental Services (ENV) and that Grievance is still pending. Moreover, by law, UPW is the exclusive collective bargaining representative for your Uncle in these employment matters and the City is required to deal with UPW in this matter. Your Uncle must exhaust all Administrative remedies provided him per his collective bargaining agreement.

We do appreciate your concern for your Uncle. If you wish to continue to be involved in this matter, we suggest you contact UPW.

Sincerely,

A handwritten signature in black ink, reading "Carolee C. Kubo". The signature is fluid and cursive, with the first letters of the first and last names being capitalized and prominent.

Carolee C. Kubo  
Director

cc: ENV Director